

"If you want to make a difference in the future, what's better than investing in kids?" he asks.

Despite his prominent role in the community, Goodman likes to work behind the scenes, says longtime friend Smedes York. A former Raleigh mayor who has known Goodman since high school, York was also a member of the committee that tried to lure the Special Olympics and Pan Am Games to the Triangle. Goodman is serious about this commitment to making things happen, York says, and backs up his promises with resources.

"He'll pick up two or three key things and put his time and resources into those," York says. "He's not just talking. He's putting up major money and people in his organization he'll assign to work on these tasks."

Goodman may have a preference for the background, but he is a natural leader. For instance, he persuaded the owner of the new Hurricanes hockey team to use the name "Carolina" Hurricanes, not "Raleigh" Hurricanes.

While others might wring hands, Goodman acts, says colleague Ben Waters. Waters should know. He is Capitol's vice president of administration and often is responsible for getting Goodman's projects off the ground. One night in 1985, Waters recalls, Goodman called him and asked if he had seen a news show about Ethiopia's starving children. Goodman gave him a task.

"He said, 'Find out how we can help them. We can't sit back and not do anything,'" Waters remembers. Although Capitol was too late to aid Ethiopia, a program to funnel aid through a religious organization to another famine hot spot is ongoing.

The son of Fletcher's only daughter, Goodman's legacy as a leader began at a young age. He was 12 years old when he took his first job as a gravedigger at a cemetery owned by his family. He earned 35 cents an hour. At age 13, he began his career in broadcasting by working odd jobs at WRAL. By age 15, he ran a camera as a member of the television production crew. U.S. Sen. Jesse Helms, R-N.C., one of Goodman's supervisors back then, remembers him well.

"I can see him now," Helms recalls of the young Goodman. "I did a lot of evening work to catch up with my correspondence and I'd see him every evening in that engineering department. He could show some of our full-time engineers how to do it."

The love of technology carried Goodman to Duke University where he studied engineering. But he left without a degree in 1965 to join the U.S. Navy. The technology bug stayed with him.

A serviceman stationed in Memphis, Tenn., Goodman also worked at a local television station. And it was in this city that he met his wife, Barbara, on a blind date. They played card games.

"Jim always said the reason he kept coming back to visit was that we had a color TV," Barbara Goodman laughs. He often visited after he got off work at the television station. But when it was time to go, she had to help him start his car, an Austin Healy.

"The only way he could start it was to get underneath it," she says. "I would get under the hood and hold something while he started it."

The couple is still a formidable team when it comes to starting projects. As a member of the board of the Salvation Army, the matriarch has rallied family members to serve in soup kitchens and to participate in a variety of community projects. Although the couple's work is now less hands-on, it is more extensive. Their work with Healing Place is a prime example. The facility plans to offer shelter and rehabilitation services when it opens in November.

Healing Place was boosted by the A.J. Fletcher Foundation, which provided start-up office space and supplies. Capitol paid an employee to act as the facility's director. And the community ponied up \$4.5 million for the project.

Sowing the seeds of self-sufficiency is a hallmark of the foundation, which now spends about \$3.5 million a year to help fund worthy North Carolina projects and fledgling organizations. "That's part of my future thing—getting things started," says Goodman.

His energy appears limitless.

"He is up and down on the computer during the night with ideas," his wife says. "The people who work for him say, 'We know how much he's been doing according to how many e-mails he has sent.'"

That relentless pace took its toll on Goodman and led to a heart attack five years ago. He says the experience clarified his vision and forced him to work more efficiently and delegate better. Although always family-centered, he has a renewed commitment to spending time with family members, particularly his grandson, who is a toddler. He also watches Durham Bulls baseball games and attends movies with his family.

Still, Goodman's vision is in high definition as he plugs his energy into projects that will make a difference 10 years into the future. "Things don't just happen right; things don't just come out right by themselves," Goodman says. "You have to work on it."●

#### NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT AMENDMENTS OF 1999

Mr. COVERDELL. Madam President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 374, S. 400.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 400) to provide technical corrections to the Native American Housing Assistance and Self-Determination Act of 1996, to improve the delivery of housing assistance to Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment in the nature of a substitute to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Native American Housing Assistance and Self-Determination Act Amendments of 1999".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Restriction on waiver authority.

Sec. 3. Assistance to families that are not low-income.

Sec. 4. Elimination of waiver authority for small tribes.

Sec. 5. Labor standards.

Sec. 6. Environmental compliance.

Sec. 7. Oversight.

Sec. 8. Allocation formula.

Sec. 9. Hearing requirement.

Sec. 10. Performance agreement time limit.

Sec. 11. Technical and conforming amendments.

#### SEC. 2. RESTRICTION ON WAIVER AUTHORITY.

(a) *IN GENERAL.*—Section 101(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 411(b)(2)) is amended by striking "if the Secretary" and all that follows through the period at the end and inserting the following: "for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe."

termination Act of 1996 (25 U.S.C. 411(b)(2)) is amended by striking "if the Secretary" and all that follows through the period at the end and inserting the following: "for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe."

(b) *LOCAL COOPERATION AGREEMENT.*—Section 101(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 411(c)) is amended by adding at the end the following: "The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d)."

#### SEC. 3. ASSISTANCE TO FAMILIES THAT ARE NOT LOW-INCOME.

Section 102(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 412(c)) is amended by adding at the end the following:

"(6) *CERTAIN FAMILIES.*—With respect to assistance provided by a recipient to Indian families that are not low-income families under section 201(b)(2), evidence that there is a need for housing for each such family during that period that cannot reasonably be met without such assistance."

#### SEC. 4. ELIMINATION OF WAIVER AUTHORITY FOR SMALL TRIBES.

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 412) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

#### SEC. 5. LABOR STANDARDS.

Section 104(b)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 414(b)(1)) is amended—

(1) by inserting "relating to 12 or more units of housing assisted under this Act" after "lease"; and

(2) by striking "Davis-Bacon Act (40 U.S.C. 276a-276a-5)" and inserting "Act of March 3, 1931 (commonly known as the 'Davis-Bacon Act') (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.)".

#### SEC. 6. ENVIRONMENTAL COMPLIANCE.

Section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 415) is amended by adding at the end the following:

"(d) *ENVIRONMENTAL COMPLIANCE.*—The Secretary may waive the requirements under this section if the Secretary determines that a failure on the part of a recipient to comply with provisions of this section—

"(1) will not frustrate the goals of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) or any other provision of law that furthers the goals of that Act;

"(2) does not threaten the health or safety of the community involved by posing an immediate or long-term hazard to residents of that community;

"(3) is a result of inadvertent error, including an incorrect or incomplete certification provided under subsection (c)(1); and

"(4) may be corrected through the sole action of the recipient."

#### SEC. 7. OVERSIGHT.

(a) *REPAYMENT.*—Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended to read as follows:

#### "SEC. 209. NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT.

"If a recipient uses grant amounts to provide affordable housing under this title, and at any

time during the useful life of the housing the recipient does not comply with the requirement under section 205(a)(2), the Secretary shall take appropriate action under section 401(a)."

(b) **AUDITS AND REVIEWS.**—Section 405 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4165) is amended to read as follows:

**"SEC. 405. REVIEW AND AUDIT BY SECRETARY.**

"(a) **REQUIREMENTS UNDER CHAPTER 75 OF TITLE 31, UNITED STATES CODE.**—An entity designated by an Indian tribe as a housing entity shall be treated, for purposes of chapter 75 of title 31, United States Code, as a non-Federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter.

"(b) **ADDITIONAL REVIEWS AND AUDITS.**—

"(1) **IN GENERAL.**—In addition to any audit or review under subsection (a), to the extent the Secretary determines such action to be appropriate, the Secretary may conduct an audit or review of a recipient in order to—

"(A) determine whether the recipient—

"(i) has carried out—

"(I) eligible activities in a timely manner; and  
"(II) eligible activities and certification in accordance with this Act and other applicable law;

"(ii) has a continuing capacity to carry out eligible activities in a timely manner; and

"(iii) is in compliance with the Indian housing plan of the recipient; and

"(B) verify the accuracy of information contained in any performance report submitted by the recipient under section 404.

"(2) **ONSITE VISITS.**—To the extent practicable, the reviews and audits conducted under this subsection shall include onsite visits by the appropriate official of the Department of Housing and Urban Development.

"(c) **REVIEW OF REPORTS.**—

"(1) **IN GENERAL.**—The Secretary shall provide each recipient that is the subject of a report made by the Secretary under this section notice that the recipient may review and comment on the report during a period of not less than 30 days after the date on which notice is issued under this paragraph.

"(2) **PUBLIC AVAILABILITY.**—After taking into consideration any comments of the recipient under paragraph (1), the Secretary—

"(A) may revise the report; and

"(B) not later than 30 days after the date on which those comments are received, shall make the comments and the report (with any revisions made under subparagraph (A)) readily available to the public.

"(d) **EFFECT OF REVIEWS.**—Subject to section 401(a), after reviewing the reports and audits relating to a recipient that are submitted to the Secretary under this section, the Secretary may adjust the amount of a grant made to a recipient under this Act in accordance with the findings of the Secretary with respect to those reports and audits."

**SEC. 8. ALLOCATION FORMULA.**

Section 302(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152(d)(1)) is amended—

(1) by striking "The formula," and inserting the following:

"(A) **IN GENERAL.**—Except with respect to an Indian tribe described in subparagraph (B), the formula"; and

(2) by adding at the end the following:

"(B) **CERTAIN INDIAN TRIBES.**—With respect to fiscal year 2000 and each fiscal year thereafter, for any Indian tribe with an Indian housing authority that owns or operates fewer than 250 public housing units, the formula under subparagraph (A) shall provide that if the amount provided for a fiscal year in which the total amount made available for assistance under this Act is equal to or greater than the amount made available for fiscal year 1996 for assistance for the operation and modernization of the public

housing referred to in subparagraph (A), then the amount provided to that Indian tribe as modernization assistance shall be equal to the average annual amount of funds provided to the Indian tribe (other than funds provided as emergency assistance) under the assistance program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) for the period beginning with fiscal year 1992 and ending with fiscal year 1997."

**SEC. 9. HEARING REQUIREMENT.**

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting each such subparagraph 2 ems to the right;

(2) by striking "Except as provided" and inserting the following:

"(1) **IN GENERAL.**—Except as provided";

(3) by striking "If the Secretary takes an action under paragraph (1), (2), or (3)" and inserting the following:

"(2) **CONTINUANCE OF ACTIONS.**—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1)"; and

(4) by adding at the end the following:

"(3) **EXCEPTION FOR CERTAIN ACTIONS.**—

"(A) **IN GENERAL.**—Notwithstanding any other provision of this subsection, if the Secretary makes a determination that the failure of a recipient of assistance under this Act to comply substantially with any material provision (as that term is defined by the Secretary) of this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may take an action described in paragraph (1)(C) before conducting a hearing.

"(B) **PROCEDURAL REQUIREMENT.**—If the Secretary takes an action described in subparagraph (A), the Secretary shall—

"(i) provide notice to the recipient at the time that the Secretary takes that action; and

"(ii) conduct a hearing not later than 60 days after the date on which the Secretary provides notice under clause (i).

"(C) **DETERMINATION.**—Upon completion of a hearing under this paragraph, the Secretary shall make a determination regarding whether to continue taking the action that is the subject of the hearing, or take another action under this subsection."

**SEC. 10. PERFORMANCE AGREEMENT TIME LIMIT.**

Section 401(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(b)) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) **IN GENERAL.**—If the Secretary";

(2) by striking "(1) is not" and inserting the following:

"(A) is not";

(3) by striking "(2) is a result" and inserting the following:

"(B) is a result";

(4) in the flush material following paragraph (1)(B), as redesignated by paragraph (3) of this section—

(A) by adjusting the margin 2 ems to the right; and

(B) by inserting before the period at the end the following: ", if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement"; and

(5) by adding at the end the following:

"(2) **PERFORMANCE AGREEMENT.**—The period of a performance agreement described in paragraph (1) shall be for 1 year.

"(3) **REVIEW.**—Upon the termination of a performance agreement entered into under paragraph (1), the Secretary shall review the performance of the recipient that is a party to the agreement.

"(4) **EFFECT OF REVIEW.**—If, on the basis of a review under paragraph (3), the Secretary determines that the recipient—

"(A) has made a good faith effort to meet the compliance objectives specified in the agreement, the Secretary may enter into an additional performance agreement for the period specified in paragraph (2); and

"(B) has failed to make a good faith effort to meet applicable compliance objectives, the Secretary shall determine the recipient to have failed to comply substantially with this Act, and the recipient shall be subject to an action under subsection (a)."

**SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) **TABLE OF CONTENTS.**—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents—

(1) by striking the item relating to section 206; and

(2) by striking the item relating to section 209 and inserting the following:

"209. Noncompliance with affordable housing requirement."

(b) **CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.**—Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is repealed.

(c) **TERMINATIONS.**—Section 502(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181(a)) is amended by adding at the end the following: "Any housing that is the subject of a contract for tenant-based assistance between the Secretary and an Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter, be considered to be a dwelling unit under section 302(b)(1)."

AMENDMENT NO. 2855

(Purpose: To ensure that laws or regulations relating to the payment of prevailing wages that are adopted by Indian tribes are not superseded by certain provisions of Federal law)

Mr. COVERDELL. Madam President, Senator CAMPBELL has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for Mr. CAMPBELL, proposes an amendment numbered 2855.

Mr. COVERDELL. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, strike lines 2 through 10 and insert the following:

Section 104(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114(b)) is amended—

(1) by striking "Davis-Bacon Act (40 U.S.C. 276a-276a-5)" and inserting "Act of March 3, 1931 (commonly known as the 'Davis-Bacon Act') (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.)"; and

(2) by adding at the end the following:

"(3) **APPLICATION OF TRIBAL LAWS.**—Paragraph (1) shall not apply to any contract or agreement for assistance, sale, or lease pursuant to this Act, if such contract or agreement is otherwise covered by 1 or more laws or regulations adopted by an Indian tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe."

Mr. COVERDELL. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2855) was agreed to.

Mr. COVERDELL. Madam President, I ask unanimous consent that the substitute amendment, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, as amended, was agreed to.

Mr. COVERDELL. Madam President, I ask unanimous consent that the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 400), as amended, was read the third time and passed, as follows:

#### S. 400

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Housing Assistance and Self-Determination Act Amendments of 2000".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Restriction on waiver authority.
- Sec. 3. Assistance to families that are not low-income.
- Sec. 4. Elimination of waiver authority for small tribes.
- Sec. 5. Labor standards.
- Sec. 6. Environmental compliance.
- Sec. 7. Oversight.
- Sec. 8. Allocation formula.
- Sec. 9. Hearing requirement.
- Sec. 10. Performance agreement time limit.
- Sec. 11. Technical and conforming amendments.

#### SEC. 2. RESTRICTION ON WAIVER AUTHORITY.

(a) IN GENERAL.—Section 101(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(b)(2)) is amended by striking "if the Secretary" and all that follows through the period at the end and inserting the following: "for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe."

(b) LOCAL COOPERATION AGREEMENT.—Section 101(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(c)) is amended by adding at the end the following: "The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d)."

#### SEC. 3. ASSISTANCE TO FAMILIES THAT ARE NOT LOW-INCOME.

Section 102(c) of the Native American Housing Assistance and Self-Determination

Act of 1996 (25 U.S.C. 4112(c)) is amended by adding at the end the following:

"(6) CERTAIN FAMILIES.—With respect to assistance provided by a recipient to Indian families that are not low-income families under section 201(b)(2), evidence that there is a need for housing for each such family during that period that cannot reasonably be met without such assistance."

#### SEC. 4. ELIMINATION OF WAIVER AUTHORITY FOR SMALL TRIBES.

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended—

- (1) by striking subsection (f); and
- (2) by redesignating subsection (g) as subsection (f).

#### SEC. 5. LABOR STANDARDS.

Section 104(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114(b)) is amended—

- (1) by striking "Davis-Bacon Act (40 U.S.C. 276a-276a-5)" and inserting "Act of March 3, 1931 (commonly known as the 'Davis-Bacon Act') (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.)"; and
- (2) by adding at the end the following:

"(3) APPLICATION OF TRIBAL LAWS.—Paragraph (1) shall not apply to any contract or agreement for assistance, sale, or lease pursuant to this Act, if such contract or agreement is otherwise covered by 1 or more laws or regulations adopted by an Indian tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe."

#### SEC. 6. ENVIRONMENTAL COMPLIANCE.

Section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115) is amended by adding at the end the following:

"(d) ENVIRONMENTAL COMPLIANCE.—The Secretary may waive the requirements under this section if the Secretary determines that a failure on the part of a recipient to comply with provisions of this section—

- "(1) will not frustrate the goals of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) or any other provision of law that furthers the goals of that Act;
- "(2) does not threaten the health or safety of the community involved by posing an immediate or long-term hazard to residents of that community;

"(3) is a result of inadvertent error, including an incorrect or incomplete certification provided under subsection (c)(1); and

- "(4) may be corrected through the sole action of the recipient."

#### SEC. 7. OVERSIGHT.

(a) REPAYMENT.—Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended to read as follows:

#### "SEC. 209. NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT.

"If a recipient uses grant amounts to provide affordable housing under this title, and at any time during the useful life of the housing the recipient does not comply with the requirement under section 205(a)(2), the Secretary shall take appropriate action under section 401(a)."

(b) AUDITS AND REVIEWS.—Section 405 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4165) is amended to read as follows:

#### "SEC. 405. REVIEW AND AUDIT BY SECRETARY.

"(a) REQUIREMENTS UNDER CHAPTER 75 OF TITLE 31, UNITED STATES CODE.—An entity designated by an Indian tribe as a housing entity shall be treated, for purposes of chapter 75 of title 31, United States Code, as a non-Federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter.

"(b) ADDITIONAL REVIEWS AND AUDITS.—

"(1) IN GENERAL.—In addition to any audit or review under subsection (a), to the extent the Secretary determines such action to be appropriate, the Secretary may conduct an audit or review of a recipient in order to—

- "(A) determine whether the recipient—
- "(i) has carried out—
- "(I) eligible activities in a timely manner; and

"(II) eligible activities and certification in accordance with this Act and other applicable law;

- "(ii) has a continuing capacity to carry out eligible activities in a timely manner; and
- "(iii) is in compliance with the Indian housing plan of the recipient; and

"(B) verify the accuracy of information contained in any performance report submitted by the recipient under section 404.

"(2) ONSITE VISITS.—To the extent practicable, the reviews and audits conducted under this subsection shall include onsite visits by the appropriate official of the Department of Housing and Urban Development.

"(c) REVIEW OF REPORTS.—

"(1) IN GENERAL.—The Secretary shall provide each recipient that is the subject of a report made by the Secretary under this section notice that the recipient may review and comment on the report during a period of not less than 30 days after the date on which notice is issued under this paragraph.

"(2) PUBLIC AVAILABILITY.—After taking into consideration any comments of the recipient under paragraph (1), the Secretary—

- "(A) may revise the report; and
- "(B) not later than 30 days after the date on which those comments are received, shall make the comments and the report (with any revisions made under subparagraph (A)) readily available to the public.

"(d) EFFECT OF REVIEWS.—Subject to section 401(a), after reviewing the reports and audits relating to a recipient that are submitted to the Secretary under this section, the Secretary may adjust the amount of a grant made to a recipient under this Act in accordance with the findings of the Secretary with respect to those reports and audits."

#### SEC. 8. ALLOCATION FORMULA.

Section 302(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152(d)(1)) is amended—

- (1) by striking "The formula," and inserting the following:

"(A) IN GENERAL.—Except with respect to an Indian tribe described in subparagraph (B), the formula"; and

- (2) by adding at the end the following:

"(B) CERTAIN INDIAN TRIBES.—With respect to fiscal year 2000 and each fiscal year thereafter, for any Indian tribe with an Indian housing authority that owns or operates fewer than 250 public housing units, the formula under subparagraph (A) shall provide that if the amount provided for a fiscal year for assistance under this Act is equal to or greater than the amount made available for fiscal year 1996 for assistance for the operation and modernization of the public housing referred to in subparagraph (A), then the amount provided to that Indian tribe as modernization assistance shall be equal to the average annual amount of funds provided to the Indian tribe (other than funds provided as emergency assistance) under the assistance program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for the period beginning with fiscal year 1992 and ending with fiscal year 1997."

#### SEC. 9. HEARING REQUIREMENT.

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting each such subparagraph 2 ems to the right;

(2) by striking "Except as provided" and inserting the following:

"(1) IN GENERAL.—Except as provided";

(3) by striking "If the Secretary takes an action under paragraph (1), (2), or (3)" and inserting the following:

"(2) CONTINUANCE OF ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1)"; and

(4) by adding at the end the following:

"(3) EXCEPTION FOR CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, if the Secretary makes a determination that the failure of a recipient of assistance under this Act to comply substantially with any material provision (as that term is defined by the Secretary) of this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may take an action described in paragraph (1)(C) before conducting a hearing.

"(B) PROCEDURAL REQUIREMENT.—If the Secretary takes an action described in subparagraph (A), the Secretary shall—

"(i) provide notice to the recipient at the time that the Secretary takes that action; and

"(ii) conduct a hearing not later than 60 days after the date on which the Secretary provides notice under clause (i).

"(C) DETERMINATION.—Upon completion of a hearing under this paragraph, the Secretary shall make a determination regarding whether to continue taking the action that is the subject of the hearing, or take another action under this subsection."

#### SEC. 10. PERFORMANCE AGREEMENT TIME LIMIT.

Section 401(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(b)) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) IN GENERAL.—If the Secretary";

(2) by striking "(1) is not" and inserting the following:

"(A) is not";

(3) by striking "(2) is a result" and inserting the following:

"(B) is a result";

(4) in the flush material following paragraph (1)(B), as redesignated by paragraph (3) of this section—

(A) by adjusting the margin 2 ems to the right; and

(B) by inserting before the period at the end the following: ", if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement"; and

(5) by adding at the end the following:

"(2) PERFORMANCE AGREEMENT.—The period of a performance agreement described in paragraph (1) shall be for 1 year.

"(3) REVIEW.—Upon the termination of a performance agreement entered into under paragraph (1), the Secretary shall review the performance of the recipient that is a party to the agreement.

"(4) EFFECT OF REVIEW.—If, on the basis of a review under paragraph (3), the Secretary determines that the recipient—

"(A) has made a good faith effort to meet the compliance objectives specified in the agreement, the Secretary may enter into an additional performance agreement for the period specified in paragraph (2); and

"(B) has failed to make a good faith effort to meet applicable compliance objectives, the Secretary shall determine the recipient to have failed to comply substantially with this Act, and the recipient shall be subject to an action under subsection (a)."

#### SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents—

(1) by striking the item relating to section 206; and

(2) by striking the item relating to section 209 and inserting the following:

"209. Noncompliance with affordable housing requirement."

(b) CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.—Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is repealed.

(c) TERMINATIONS.—Section 502(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181(a)) is amended by adding at the end the following: "Any housing that is the subject of a contract for tenant-based assistance between the Secretary and an Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter, be considered to be a dwelling unit under section 302(b)(1)."

#### ORDERS FOR TUESDAY, FEBRUARY 29, 2000

Mr. COVERDELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, February 29. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day,

and the Senate then resume debate on S. 1134, the education savings account bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. COVERDELL. Madam President, for the information of all Senators, tomorrow the Senate will resume consideration of the education savings account legislation. It is expected that a special education amendment may be offered tomorrow morning. Other amendments are expected to be offered and debated during tomorrow's session, with votes occurring throughout the day. Due to the pending agreement, the cloture vote for tomorrow has been vitiated. It is hoped that the education savings account bill can be completed by midweek, and therefore Senators are encouraged to work with the bill managers to offer their amendments in a timely manner.

#### ADJOURNMENT UNTIL TUESDAY, FEBRUARY 29, 2000

Mr. COVERDELL. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:01 p.m., adjourned until Tuesday, February 29, 2000, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate February 28, 2000:

##### THE JUDICIARY

NICHOLAS G. GARAUFIS, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE CHARLES P. SIFTON, RETIRED.

GERARD E. LYNCH, OF NEW YORK, TO BE A UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE JOHN E. SPRIZZO, RETIRED.

##### DEPARTMENT OF JUSTICE

DANIEL MARCUS, OF MARYLAND, TO BE ASSOCIATE ATTORNEY GENERAL, VICE RAYMOND C. FISHER.